

REMARKS

The Office Action of March 5, 2010 has been considered by the Applicant. No claims are added, amended, or cancelled. Claims 43-48, 50, and 52-59 are pending. Reconsideration of the Application is requested.

Claims 43-48 and 50 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Arsem (U.S. Patent No. 2,472,361) and Marks (U.S. Patent No. 2,817,621) in view of Katzen (U.S. Patent No. 4,369,199) and Watson (Biological Control, January 2001, vol. 20, pages 8-15). Applicant traverses the rejection.

According to the Examiner, Arsem disclosed trichloromelamine (TCM) as a disinfectant, Marks disclosed a combination of TCM and acid having pH below 5, Katzen disclosed treating an animal habitat with an acid at a pH of about 4, and Watson discloses that darkling beetles are a "common pest" of chicken and turkey houses. Thus, the Examiner reasoned that it would be obvious to use Mark's composition to treat an animal habitat as taught by Katzen. Watson was used to show that such a treatment would naturally result in controlling Darkling beetles.

Applicants submit that there would be no reasonable expectation of success. In this regard, the pending claims are process claims, not composition claims. Thus, the specific use and intent, i.e. controlling Darkling beetles, is important.

Arsem and Marks describe TCM as a disinfectant or germicide. Applicants submit that this is different from the present use, wherein TCM is used as an insecticide. In this regard, Applicants submit that the art teaches different types of compositions, such as germicides, insecticides, fungicides, and rodenticides. Each type is known to kill one type of creature, and a common goal is for specificity. For example, it is desirable that antibiotics kill bacteria without killing a human. None of the cited references teach that TCM is known to kill insects such as Darkling beetles. As a result, the Examiner appears to be making an impermissible hindsight reconstruction of the present claims. MPEP § 2145(X)(A).

Applicants also submit that the link between Marks and Katzen does not refer to the TCM, but rather to the acid. In other words, Katzen teaches adding acid to the animal habitat of Katzen, not TCM.

Applicant requests withdrawal of the § 103(a) rejection.

CONCLUSION

For the reasons detailed above, it is respectfully submitted all claims remaining in the application (Claims 43-48, 50, and 52-59) are now in condition for allowance.

Respectfully submitted,

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Date

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